



Washington State
Public Disclosure Commission

Annual Report

July 1, 2002 – June 30, 2003



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Susan Brady, Vice Chair
Lois Clement, Secretary
Francis Martin, Commissioner
Earl Tilly, Commissioner

"We build public confidence in the political process and government."

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TABLE OF CONTENTS

	Page
Executive Summary	1
Mission Statement	3
General Information	3
Commission Members/Executive Director	5
Major Accomplishments	9
Agency Request Legislation	9
Information Technology	9
Policy Making Activity	10
Filer Assistance and Training	11
Disclosure	12
Compliance	14
Enforcement	15
Citizen Action Letters	21
Litigation	23
Agency Goals and Objectives	27

EXECUTIVE SUMMARY

The Public Disclosure Commission members and staff are dedicated to the task of providing timely and meaningful public access to information received and to insure compliance with the disclosure laws. Fiscal Year 2003 was a successful year for the Public Disclosure Commission, thanks to the support from the Governor and Legislature.

National Recognition

- Ballot Initiative Strategy Center Foundation ranked PDC first among state disclosure agencies having the initiative process (July 2002)
- Center for Public Integrity ranked PDC first in the nation for the disclosure of lobbyist information (May 2003)

Disclosure

- 80,583 reports filed were made available on the Internet within hours of receipt
- Electronically filed reports were available immediately (600 e-filers)
- Paper filings were made available on the same day received
- Continued development of upgrade to campaign electronic filing system
- Improved website usability

Agency Request Legislation/Policy Making Activity

- Legislation changed filing requirements for out-of-state and federal committees
- Amended eight rules and adopted one new rule

Filer Assistance and Training

- Staff conducted 68 workshops
- 1,100 individuals attended representing candidates, political committees and lobbyists
- Compliance staff spent 40-50% of their time answering questions
- The electronic L-2 report was enhanced

Compliance and Enforcement

- Over 25 enforcement cases or reports of investigation presented to Commission
- Four cases referred to Office of the Attorney General
- Settlement amounts ranged from \$1,000 to \$40,000
- Over 200 brief adjudicative proceedings held by Commission Chair primarily for late reporting
- Limited scope audits conducted on 11 candidates for legislature in 2002

MISSION STATEMENT

The Public Disclosure Commission was created and empowered by an Initiative of the People to provide timely and meaningful public access to information about the financing of political campaigns, lobbyist expenditures, and the financial affairs of public officials and candidates, and to ensure compliance with contribution limits and other campaign finance restrictions.

GENERAL INFORMATION

The Public Disclosure Commission was established in 1973 as a result of Initiative 276, passed by voters in November, 1972.

- Statutory Reference Code: Revised Code of Washington 42.17
-
- Employees/Full Time Equivalents (FTEs)
One FTE=2,088 paid hours of work per year by one or more individuals.
 - 15 Classified employees
 - 4 Washington Management Service employees
 - 3 Exempt employees
- Operating Budget—FY 2003: General Fund State \$1,928,183

Allocation of FY 2003 Allotment

ITEM	APPROPRIATION	ACCESS	%	ENFORCEMENT	%	ADMINISTRATION	%
Salaries and Benefits	\$1,291,893	\$904,325	70%	\$232,541	18%	\$155,027	12%
Personal Services Contracts							
Travel	\$18,386	\$7,354	40%	\$9,193	50%	\$1,839	10%
Equipment (over \$5,000)	\$0						
Goods & Services - Total	\$617,904	\$247,162	40%	\$253,341	41%	\$117,402	19%
TOTAL	\$1,928,183	\$1,158,841	60%	\$495,074	26%	\$274,268	14%

Budget Appropriation: FY 00 through FY 03

ITEM	FY 00	FY 01	FY 02	FY 03
Salaries and Benefits	\$1,006,338	\$1,321,496	\$1,300,827	\$1,291,893
Personal Services Contracts		\$125,000		
Travel	\$10,000	\$13,819	\$13,365	\$18,386
Equipment (over \$5,000)	\$200,000	\$100,000	\$7,000	
Goods & Services - Total	\$574,909	\$828,003	\$551,486	\$617,904
TOTAL	\$1,791,247	\$2,388,318	\$1,872,678	\$1,928,183

COMMISSION MEMBERS

The Commission is composed of five citizen members appointed by the Governor and confirmed by the State Senate. Each Commissioner serves a staggered term of five years, and no more than three members can be affiliated with the same political party. Commissioners may not participate in any way in any election campaign, nor are they able to lobby, except on Commission business matters permitted by RCW 42.17.190.

The Commission hires the executive director, sets agency policy and adjudicates enforcement matters.

Commission members are:

MICHAEL CONNELLY , CHAIR

Commissioner Connelly was appointed to the Public Disclosure Commission by Governor Gary Locke on April 2, 2002. His term expires on December 31, 2006.

Mr. Connelly is currently serving as City Attorney for the City of Spokane, Washington and Adjunct Professor at the Gonzaga School of Law. Since 1981, he has practiced law, emphasizing municipal issues, personal injury, family law and all aspects of civil litigation.

Mr. Connelly was a candidate for the State House of Representatives from the 9th Legislative District in 1999 and has served on the Town of Latah City Council, Liberty School District Board of Directors and the West Central Community Center and Spokane Community Center Board of Directors.

He has also had the opportunity to serve as a pro-tem hearing examiner, superior court commissioner, and an adjunct professor at Eastern Washington University.

Mr. Connelly graduated from the University of Washington with a Bachelor of Arts degree in History and Education and has a Juris Doctorate degree from Gonzaga School of Law.

SUSAN BRADY, VICE CHAIR

Commissioner Brady was re-appointed to a full term on the Public Disclosure Commission by Governor Gary Locke on January 1, 1999, and confirmed by the Washington State Senate on April 15, 1999. Her term expires on December 31, 2003.

Ms. Brady is a public affairs professional who has developed, designed and produced public relations programs for the Office of the Attorney General while holding the position of Director of Public Affairs from 1988 to 1993. Ms. Brady has extensive political campaign experience in state political party politics and in managing two statewide candidate campaigns.

Ms. Brady has worked in the private sector as a manager with Clarion Imports and the Mercer Point Wine Company.

Ms. Brady graduated from Pacific Lutheran University. She holds a Bachelor of Arts degree in Political Science.

LOIS CLEMENT, SECRETARY

Commissioner Clement was appointed to the Public Disclosure Commission by Governor Gary Locke on February 23, 2002, with Senate confirmation occurring on March 14, 2002. Her term expires on December 31, 2005.

Ms. Clement retired after thirty years of service with the Bellingham Public Library. She spent eight years as head of the Circulation Department and twenty years managing the Materials Budget and Acquisitions Division for the library.

Ms. Clement is Past President of the American Federation of State, County and Municipal Employees Union, Council 2, in Bellingham and served on the AFSCME Executive Board for many years. She has been active in the Democratic Party and has managed many candidate campaigns.

Ms. Clement served on the Washington State Retirement Advisory Board from 1991 to 1993 and was a board member of the Retired Senior Volunteer Program (RSVP) in Whatcom County.

Ms. Clement pursued nurses training in Vancouver, B.C. and library studies at Whatcom County Community College.

FRANCIS MARTIN

Commissioner Martin was appointed to the Public Disclosure Commission by Governor Gary Locke on June 21, 2002 to fill an unexpired term that ends on December 31, 2004.

Mr. Martin is a retired firefighter. He worked 25 years for the City of Yakima and served on the Executive Board of the Yakima Firefighters Association, IAFF Local 469, for twenty years, with three terms as Union President.

Mr. Martin is active in the horse racing industry serving as Racing Secretary for Sun Downs in Kennewick, Western Montana Fair and Northwest Fair and an Official Starter at Sun Downs, Playfair, Harbor Park and Yakima Meadows.

Mr. Martin attended Yakima Valley Community College and received training in Fire Investigation from Central Washington University. He also received Aircraft Rescue and Fire Fighter training from Big Bend Community College.

EARL TILLY

Commissioner Tilly was appointed to the Public Disclosure Commission by Governor Gary Locke on January 1, 2003 with Senate confirmation occurring on April 27, 2003.

Mr. Tilly is currently retired after serving six years as the Mayor of Wenatchee, Washington (1994-1999). In 1986 he was appointed by President Reagan to be the State Director of Farmers Home Administration. President Bush reappointed Tilly to that post in 1989.

In 1972 he was first elected to the State House of Representatives from the 12th Legislative District and served seven terms. Tilly held leadership positions of Republican Organization Leader and Majority Caucus Chair during his tenure in the House of Representatives.

He is active in Rotary International, Habitat for Humanity, Rebuilding Together of Greater Wenatchee and was instrumental in the funding and development of the Wenatchee Valley Senior Center.

Mr. Tilly attended Pacific Lutheran University, Wenatchee Valley College and graduated from the University of Washington with a Bachelor of Arts degree in Business.

Other Commission members who served during FY 03:

CHRISTINE YOROZU

Commissioner Yorozu was appointed to the Public Disclosure Commission by Governor Gary Locke on July 28, 1999, and confirmed by the State Senate on April 21, 2001. Her term ended December 31, 2002.

Ms. Yorozu has extensive experience in state and local government. She is a former Communications Director for the Washington State Department of General Administration, Public Relations Director for the Washington State Lottery and she provided program and personnel services to the King County Department of Transportation.

She has served as agency spokesperson, coordinated legislative activities, and developed, managed and coordinated statewide communications programs.

Ms. Yorozu has worked as a legislative coordinator for the Secretary of State, as caucus staff member with the Washington State House of Representatives and has been involved in initiative and candidate election campaigns.

Ms. Yorozu attended Highline Community College and the University of Washington. She is active in the community, having served as a board member of the Asian Counseling and Referral Service. She currently serves on the Nikkei Concerns Board of Directors in Seattle.

VICKI RIPPIE, EXECUTIVE DIRECTOR

Ms. Rippie has been employed by the Public Disclosure Commission since 1987, and became the agency's Executive Director on May 15, 2000. She also served as Acting Director for eight months. From 1994 to 1999, she held the position of Assistant Director for Public Information and Policy Development.

Ms. Rippie relocated to Washington from Alaska in 1987. She was employed as Assistant Director of the Alaska Public Offices Commission, PDC's counterpart in the 49th state, a special assistant to the Mayor of Anchorage and has held legislative staff positions in Wisconsin. She graduated from the University of Wisconsin-Madison in 1976.

MAJOR ACCOMPLISHMENTS

National Recognition

In July, 2002, the Ballot Initiative Strategy Center Foundation graded state disclosure agencies in states having the initiative process. Washington ranked 1st because of the ease with which voters could obtain on-line campaign finance information.

In May, 2003, Washington ranked first in a national study of lobbying disclosure programs in a study conducted by the Center for Public Integrity. The Center's three-month study evaluated whether lobbying disclosure forms were readily available, listed lobbyists and their employers, and disclosed gifts and contributions to lawmakers. Washington's full online registration and reporting and wide public access to data was commended in the survey.

Agency Request Legislation

During the 2003 legislative session, the PDC was successful in getting legislation passed that changed the filing requirements for out-of-state and federal committees (HB 1294).

Information Technology

As part of the ongoing efforts to optimize and automate agency processes, the following technological enhancements and activities were conducted:

Training

- Conducted 41 WEDS training sessions
- Provided training to an additional 211 individuals including a special training session for the Washington Association of CPA's in Bellevue as well as off site sessions in Spokane, Bellevue, Mt. Vernon, Vancouver, Port Angeles and the Tri-Cities

PDC Public Internet Website

Enhanced the search database feature including the following:

- Hyperlinked data search results to the actual image of reports
- Added 2002 election specific queries for selected local races and the top 50 contributors to statewide ballot initiatives
- Added reports for Last Minute Contributions for the 2002 election
- Developed, modified and enhanced 12 various Lobbyist reports
- Provided a demonstration on the new upgrades and enhancements to the media.

WEDS Replacement Project – On-line Reporting of Campaign Activity (ORCA)

Continued project development activities associated with the WEDS replacement project including:

- Conducted an on-line end user survey receiving over 200 responses

- Established end user focus groups using on-line materials to gain feedback on preliminary designs from over 125 survey participants
- Developed and enhanced the source code and schematic
- Developed over 90 screens for the Graphical User Interface
- Developed all campaign finance forms, schedules and continuation reports for display on-screen and printed format
- Developed and updated the ORCA on-line help system completing modifications to the "How Do I..." section

On-Line Filing Applications

- Developed and deployed a web browser based replacement for the WEDS upload utility
- Modified and enhanced the on-line filing applications for lobbyists to file the L2 expense report as well as the ability to amend previously submitted reports

Internal Intranet Applications and Systems

- Developed and enhanced the data entry lobbyist graphical user interface
- Developed an intranet web page to provide automated Performance Measures reporting that identifies the ratio and percentage of paper and electronic filers
- Developed an intranet web page to provide compliance staff the ability to query filings and filing requirements
- Developed database and graphical user interface enhancements to accommodate C5 reporting data as well as the ability to input F1 filers e-mail addresses
- Developed queries and reports to produce the content for the 2002 Campaign Financing Fact Book
- Migrated the Commission's dedicated internet access service from Sprint telecommunications LLP to the Department of Information Services

IT Budget Request

- Developed and presented two OFM Information Technology budget decision packages to support ongoing software maintenance costs and Disaster Recovery/Business Resumption preparedness

Policy Making Activity

The Public Disclosure Commission formally amended eight disclosure rules and adopted one new rule. The rules are identified below:

Adopted

WAC 390-17-110 Employee notification of withholding provisions

Amended

WAC 390-16-234 Transfers of surplus and nonsurplus candidate funds

WAC 390-16-245 Pledges

WAC 390-17-100 Contribution withholding authorizations

WAC 390-17-200 Major political party organizations

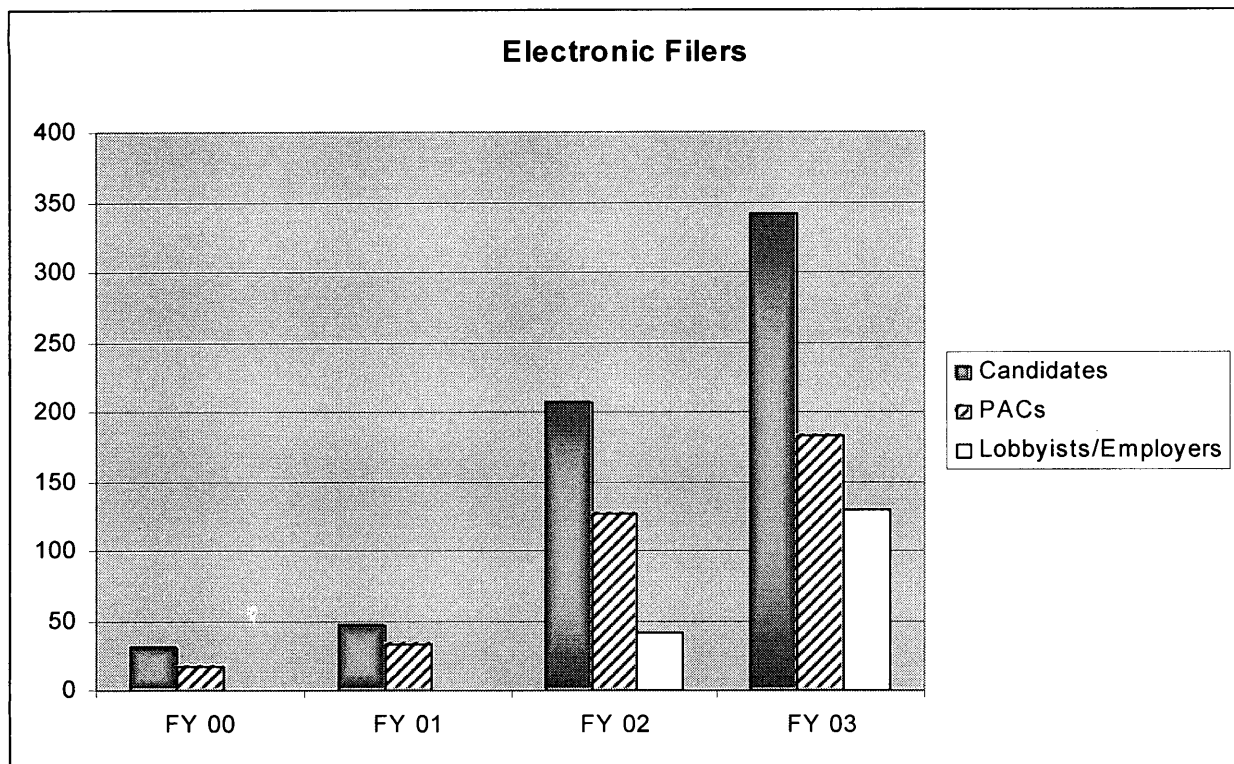
WAC 390-18-010 Political advertising—Identification of sponsor
WAC 390-24-010 Forms for statement of financial affairs
WAC 390-24-020 Forms for amending statement of financial affairs
WAC 390-37-030 Enforcement procedures—Status of citizen complainant and others

In July 2002, the Commission voted to withdraw Interpretation 95-01, Definition of “General Election” because it was no longer needed.

Filer Assistance and Training

In order to facilitate timely and accurate reporting, the Commission provides materials and training opportunities to filers. The materials include instructional manuals, brochures and notices to candidates and political committees. These materials are available in hard copy or on the PDC’s website. Staff also conducted 68 training workshops across the state, including 26 candidate and political committee workshops and 41 software training sessions. Approximately 1,100 people attended training of one type or another.

Staff continues to provide one-on-one advice and assistance to filers who call or come into the office. From July 1 through election day of 2002, two information technology employees spent the vast majority of their time during this period assisting electronic filers comply with the law. During this same time period, the compliance staff spent approximately 40-50% of their time answering electronic mail, telephone and walk-in inquiries regarding the disclosure law or electronic filing questions.

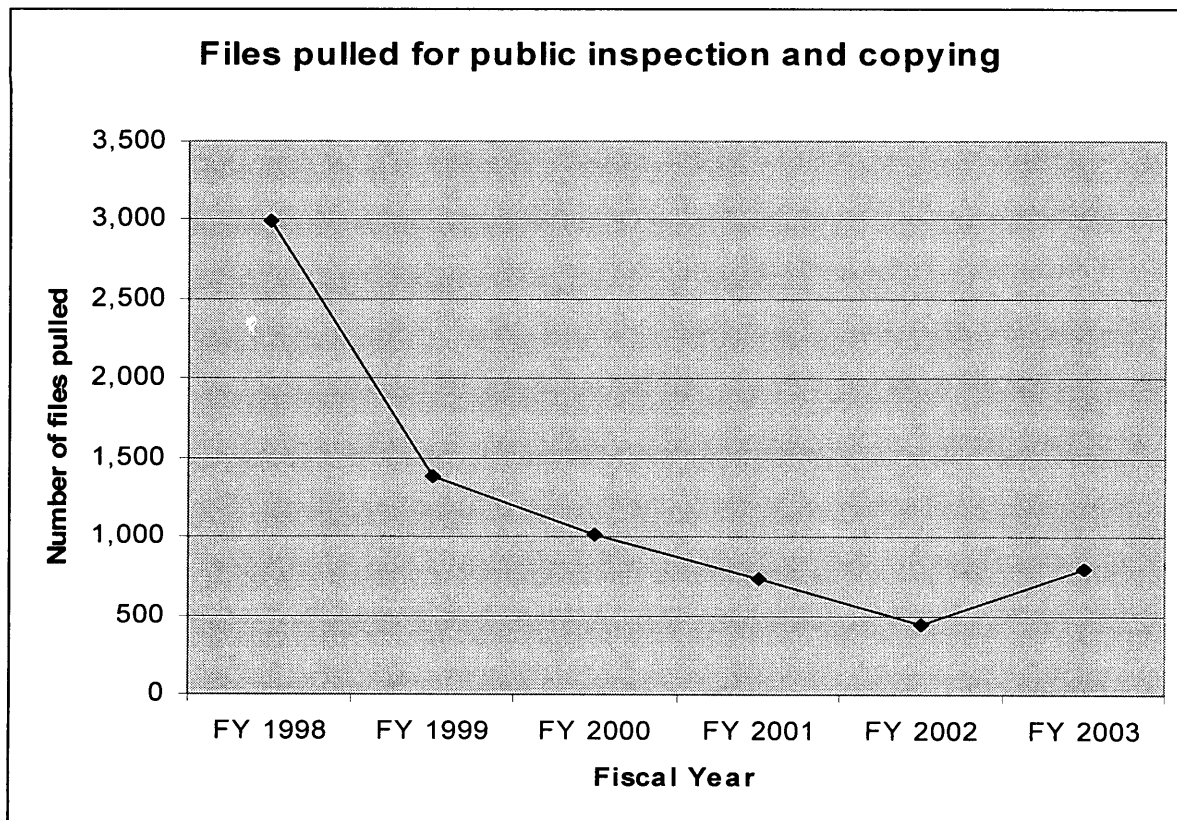


	FY 00	FY 01	FY 02	FY 03
Candidates	31	47	207	342
PACs	17	34	127	183
Lobbyists/Employers	0	0	41	130

Disclosure

The ability to obtain data in ways that are most useful is an agency priority. The Commission has met this challenge by providing timely and convenient access to filed reports through its website. During FY 2003, the PDC received, through paper filings or electronically, 80,583 reports from candidates, elected and appointed officials, lobbyists, lobbyist employers and political committees. These filings translated into 152,540 pages that were then processed. Reports filed electronically are immediately available on the Internet. Reports filed on paper are available on the Internet the same day received.

Since its inception, the Commission continues the desire to respond promptly to requests for information from the agency's many clients. During FY 2003, the agency replied to 1,655 requests for copies of reports or other documents.



In May of 2003, staff assembled 4,000 Declaration of Candidacy packets. These packets were sent to county elections officials for distribution to individuals seeking office.

Governor's Directives & Executive Orders

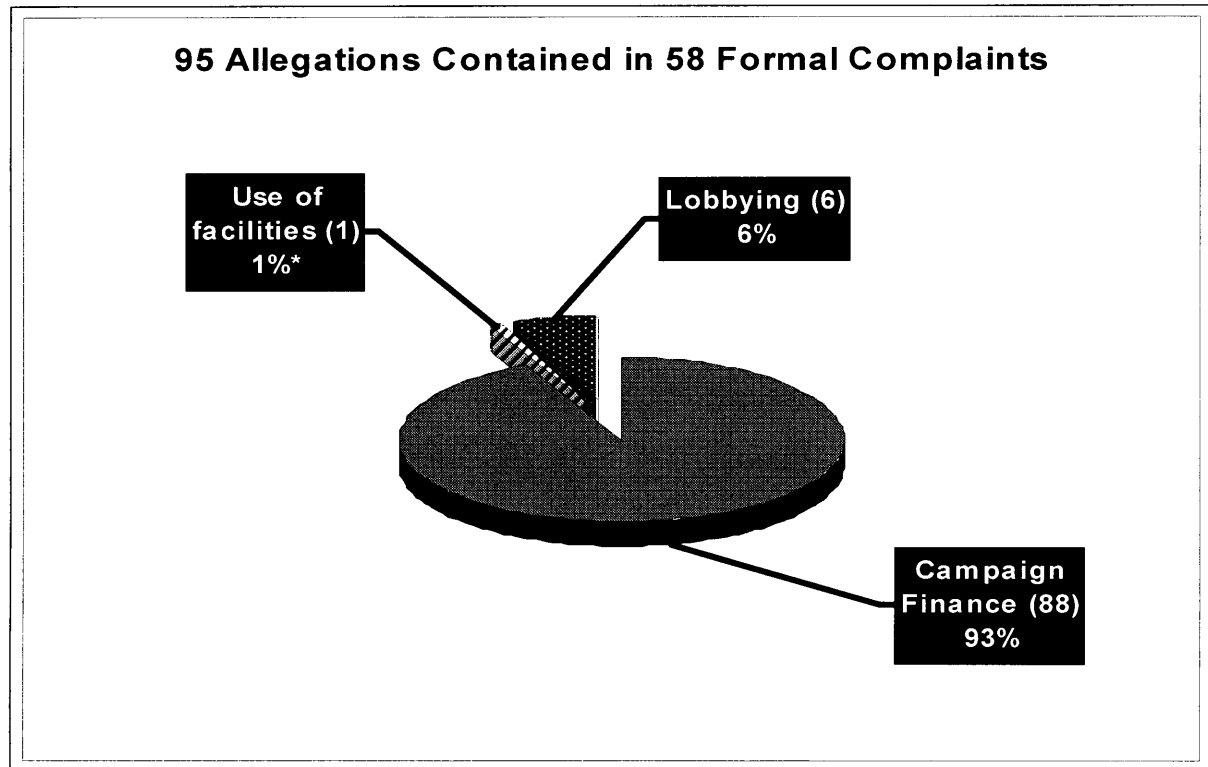
A Sustainability Plan was developed in response to the Governor's Executive Order 02-03. The plan includes, among other things, long range goals for enhancing and/or changing our daily business practices to reverse trends of natural system decline which threaten the economic health and social vitality of our state.

In response to the Governor's Directive 03-01, we began developing an agency preparedness plan for homeland security alerts and other major disasters and emergencies.

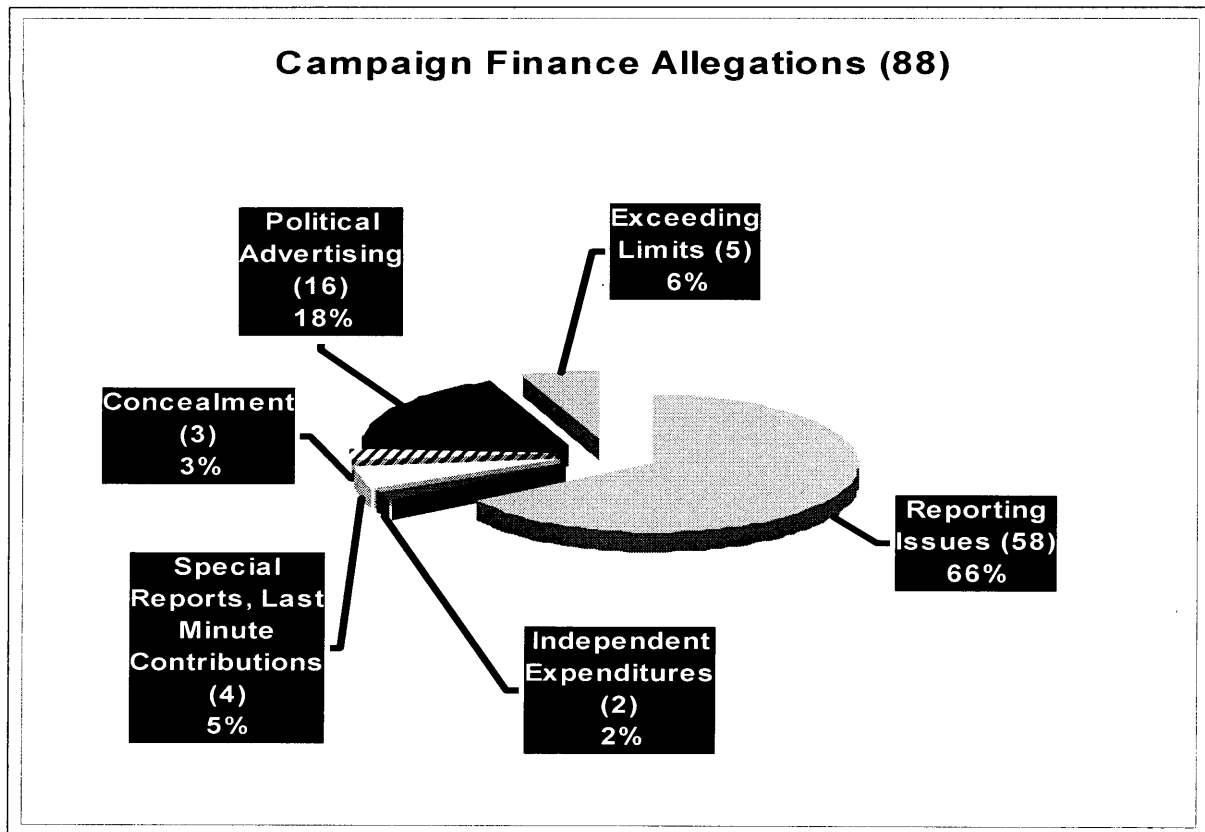
Also in accordance with Executive Order 03-01, a customer service survey form and a customer service suggestion form were developed as a means to enhance customer service delivery. Service Delivery Standards and Guidelines have been developed and distributed to agency staff.

Compliance

In addition to the time spent assisting filers and conducting investigations, compliance staff spent 1,451 hours reviewing filings and conducting desk and field audits, revealing that most filers were in substantial compliance with the disclosure laws.



*Note: This figure does not reflect the 17 complaints alleging violations of RCW 42.17.130 received after July 29, 2002. See Washington Education Association v. Public Disclosure Commission, Christine Yorozu, Gerry Marsh, Lois Clement, Susan Brady and Ronda Cahill, State Supreme Court No. 72822-1 in the Litigation Section.



Note: While complaints were received alleging 95 specific violations, not all cases did or will result in enforcement action.

Enforcement

The Commission has the authority to conduct audits of reports filed by elected officials, candidates for public office, political party organizations, political committees, lobbyists, and other filers.

The Commission also has the authority to conduct investigations of complaints filed against elected officials, candidates for public office, political party organizations, political committees, lobbyists, and other persons subject to the law. Once an investigation has been completed and a report has been written, the case is either scheduled for an enforcement hearing or a dismissal letter is sent to the complainant.

The Commission holds two types of enforcement hearings, a brief enforcement hearing, or full Commission enforcement hearing.

The brief enforcement hearing is scheduled for less serious matters where the facts are undisputed. A single commissioner serves as the hearing officer, and if a violation is found, a civil penalty of no more than \$500 may be assessed for the violation(s). A full Commission enforcement hearing is held for persons who appear to be substantially out of compliance with the disclosure law or the facts of the case are in dispute. Evidence may be presented and testimony taken during this formal proceeding. If a violation is

found, the Commission may impose a civil penalty up to \$1,000 for a single violation or \$2,500 for multiple violations. If the Commission determines that its penalty authority is insufficient, it may find "apparent violations" and refer the matter to the Office of the Attorney General for possible further legal action.

Below is a table describing the number and types of complaints filed:

Complaints/Enforcement Hearings/Investigations

	FY 2003
Formal Complaints Filed by Public	57*
Formal Complaints Filed by PDC	1
PDC Generated Group Enforcement Complaints	432
Total Complaints	490
Formal Complaints Filed Against Candidates	31
Formal Complaints Filed by Public Against Candidates	31
Complaints Closed with Minor or No Action (No formal investigation and not included in above.)	64
Investigations Opened	490
Investigations Closed	505**
Brief Enforcement Hearings Held	202
Full Enforcement Hearings Held and Reports to Commission Recommending Referral to AG	26
Total Hearings/Recommendations	228
Reviews of Brief Enforcement Hearings	33
Reconsiderations of Final Orders	4

*Note: This figure does not reflect the 17 complaints alleging violations of RCW 42.17.130 received after July 29, 2002. See Washington Education Association v. Public Disclosure Commission, Christine Yorozu, Gerry Marsh, Lois Clement, Susan Brady and Ronda Cahill, State Supreme Court No. 72822-1 in the Litigation Section.

**Group Enforcement	432
Brief Hearings (Reg. Cases)	11
Full Hearings & Referrals	26
Dismissals	<u>36</u>
	505

During FY 2003, the staff conducted limited scope audits of 11 candidates running for state legislature in 2002. The audits revealed that most of the candidates were in

substantial compliance with the Public Disclosure Laws. Below are some of the findings:

- Timeliness of C-3 reports---all but one candidate timely filed C-3 reports 85% of the time.
- Timeliness of C-4 reports---all but one candidate filed C-4 reports on time.
- Other Information---all candidates submitted at least 94% of the information required (including contributor name, address, employer and occupation.)

The audits revealed some common reporting deficiencies that included the failure to sufficiently describe third-party vendor expenses and failure to report orders placed. Staff has proposed rule amendments to the Commission in an attempt to assist filers in understanding the requirements and improve compliance.

Below is a summary of the full enforcement hearings held during FY 2003.

- **Washington State Democratic Central Committee—Case #03-005.** The WSDCC was charged with failing to timely report approximately \$6,000,000 in contributions and \$1,000,000 in expenditures in 2000. The Commission found apparent violations and referred the matter to the Office of the Attorney General. The matter settled, with the WSDCC agreeing to pay a penalty of \$250,000 with \$100,000 suspended based on terms set forth in the agreement.
- **Environmental Materials Transport, LLC and its managers and TME Capital Group and its managers---Case #03-155, 03-156 and 03-158.** The respondents were found to have concealed the true source of contributions made to 1999 Des Moines City Council candidates. Staff and the respondents reached a stipulated agreement and the respondents agreed to a \$40,000 penalty, with an additional \$3,000 to cover a portion of investigation costs. The Commission accepted the stipulation.

Staff reported to the Commission on the role that other entities played in the matter of Environmental Materials, et.al. for the concealment of contributions to 1999 Des Moines City Council candidates. The Commission dismissed the allegations against the following:

- **Denis Bryant**
 - **Dixie Collett**
 - **Ginger Marshall**
 - **Michael Melhoff and Enviroc, Inc.**
 - **Henry M. Foote, Jr.**
 - **Marty Michaelson**
- **Donald Wasson—Case #02-296.** Mr. Wasson was charged with failing to register and report a political committee and concealing the true source of contributions made to candidates in the 2001 Des Moines City Council election. Staff and Mr. Wasson reached a stipulated agreement and Mr. Wasson agreed to

pay a \$10,000 penalty, with \$7,500 suspended. The Commission accepted the stipulation.

- **Hank Hopkins—Case #03-153.** Mr. Hopkins was charged with contributing in excess of \$5,000 during the 21 days before the 2001 general election and concealing the true source of contributions made to 2001 Des Moines City Council Candidates. The Commission found apparent violations and referred the matter to the Office of the Attorney General.
- **Henry M. Foote, Jr. and Margaret Steenrod—Case #02-296.** These individuals were candidates in 2001 for Des Moines City Council. Staff reported to the Commission that there was no evidence that these individuals played a role in the concealment issues related to the Donald Wasson and Hank Hopkins matters. The Commission dismissed the charges against Mr. Foote and Ms. Steenrod.
- **National Education Association—Case #02-282.** The NEA was charged with failing to obtain written authorization from agency fee payers before using any of their funds to influence an election or to operate a political committee. The Commission found apparent violations and referred the matter to the Office of the Attorney General. Other issues raised in the complaint—NEA failed to register its Ballot Measure/Legislative Crisis fund as a political committee and also failed to obtain written authorization from members prior to withholding dues to support the fund---were dismissed.
- **Protect Our Pets and Wildlife—Case #01-134.** The committee was charged with failure to timely report \$500,000 in expenditures (orders placed for television advertisements). This case was first heard in FY 2002. The Commission found apparent violations and referred the matter to the Office of the Attorney General for further action, with the understanding that if the Attorney General failed to commence action, the matter would be returned to the Commission. The Attorney General returned the matter to the Commission for adjudication. The Commission found the committee in violation and assessed a penalty of \$2,500.
- **Whatcom County Republican Party—Case #03-019.** The committee failed to timely report contributions and expenditures for a three year period. Staff and the committee reached a settlement where the committee admitted to the violations and agreed to a \$5,000 penalty with \$2,500 suspended. The Commission accepted the stipulation.
- **Concerned Citizens for Better Government and Joseph Coomer---Case #02-296 and 03-080.** The committee and Mr. Coomer were charged with failure to report contributions and expenditures made to candidates and ballot issues in the Highline and SeaTac area. The Commission found apparent violations and referred the cases to the Office of the Attorney General for further action.

- **Washington State Democratic Central Committee and the Democratic Party of Oregon—Case #03-068.** The WSDCC was charged with failure to forfeit a contribution received from the Democratic Party of Oregon who had failed to file an Out-of-State or Federal Political Committee form (PDC form C-5.) The Democratic Party of Oregon was charged with failure to report. Staff and both committees stipulated to a \$1,000 each with \$500 suspended. The Commission accepted the stipulations.

In related matters, the Commission dismissed allegations against eleven out-of-state or federal committees for failure to file a C-5 form. Of those eleven, six were granted retroactive reporting modifications to relieve them from the obligation to file the report because their information was readily available on the Federal Election Commission's website. Those six entities are:

- **The Democratic National Committee**
- **The Democratic Senatorial Campaign Committee**
- **The Democratic Congressional Campaign Committee**
- **The International Brotherhood of Electrical Workers COPE**
- **Drive (Teamsters Political Committee)**
- **Native American Peace Officers Political Committee**

The remaining five cases were dismissed because it was found that the following organizations were not required to file the C-5 (they either did not contribute to WSDCC's state account or they were not a political committee):

- **The Democratic Legislative Campaign Committee**
 - **Communication Workers of America COPE**
 - **Iron Workers Political Committee**
 - **International Association of Machinists Non-Partisan Political Committee**
 - **National Committee for an Effective Congress**
- **Ad Hoc Merchants Committee/Doug Schurman—Case #02-270.** The Commission found the committee and Mr. Schurman in violation for failure to register and report as a political committee and for failure to have books and records open 8 days prior to the general election. The Commission assessed a \$250 penalty and suspended the entire amount.
 - **United Seafood Business Association—Case 03-006.** The organization failed to file its Lobbyist Employer report (PDC form L-3) due the last day of February, 2002. The Commission assessed a \$1,000 penalty, and if \$500 was paid immediately, \$250 was suspended.

Failure to File Statements of Financial Affairs:

The following individuals were found in violation for failure to file annual Statement of Financial Affairs. These individuals were brought before the full Commission because of their reporting history.

- **St. Clair Woodworth.** Port of Sunnyside Commissioner. Stipulated to a \$1,000 penalty.
- **David Elton.** Candidate for Spokane Valley City Council. Penalized \$1,000.

Failure to Electronically File Reports:

The following committees and candidates failed to file reports electronically. All were found in violation and fined \$500 with \$250 suspended if the required reports were electronically filed within 10 days.

- **Abraham Lincoln Memorial Society**
- **East King County Lawyers for Justice**
- **Western Washington Trial Lawyers for Victims Rights**
- **Victims Advocates**
- **PAC 48 of Washington**
- **Washington State NARAL**
- **Brad Benson**

CITIZEN ACTION LETTERS

RCW 42.17.400(4) states, in part: "Any person who has notified the attorney general and the prosecuting attorney in the county in which the violation occurred in writing that there is reason to believe that some provision of this chapter is being or has been violated may himself bring in the name of the state any of the actions...This citizen action may be brought only if the attorney general and the prosecuting attorney have failed to commence an action hereunder within forty-five days after such notice and such person has thereafter further notified the attorney general...that said person will commence a citizen's action within 10 days upon their failure to do so..."

During FY 03, one citizen action letter was received and investigated. Mr. Richard Pope alleged that the Washington State Democratic Central Committee was in violation for failure to forfeit funds it received from several out-of-state or federal political committees and the out-of-state or federal committees failed to file a C-5 report. See comments under the Enforcement Section above, Washington State Democratic Central Committee and the Democratic Party of Oregon—Case #03-068.

LITIGATION

The following is a summary of major litigation occurring in FY 2003 in which the Public Disclosure Commission was a party. It does not include details of the superior court cases pursued to collect unpaid penalties imposed by PDC.

State Courts

State Supreme Court

- **Washington Education Association v. Public Disclosure Commission, Christine Yorozu, Gerry Marsh, Lois Clement, Susan Brady, & Ronda Cahill**, State Supreme Court No. 72877-1 (*Pending*). Challenge filed in September 2001 by the WEA to the PDC's *Guidelines for School Districts in Election Campaigns*. The Guidelines explain the prohibition in RCW 42.17.130 on the use of public facilities to support or oppose candidates or ballot measure campaigns. The statute was first codified after the passage of Initiative 276. In 2002, the King County Superior Court ruled that the WEA and its members have a free speech and association right to use public facilities for campaigns, despite the prohibitions in RCW 42.17.130. The PDC appealed to the State Supreme Court. Oral arguments were heard on June 24, 2003. A decision is pending.
- **State ex rel. Public Disclosure Commission v. Washington Education Association, Court of Appeals No. 28264-0-II** (*Pending*). This is an appeal from a Thurston County Superior Court ruling in favor of the PDC and against the WEA in May 2001. The lawsuit was filed against the education employees union for alleged violations of RCW 42.17.760 (misuse of agency fee payer funds for political purposes) for the past 5 years. The trial court imposed a penalty of \$400,000, plus costs and fees, and a Permanent Injunction in December 2001. The WEA appealed to the Court of Appeals; oral argument was heard in March of 2003. On June 24, 2003 the Court of Appeals, Division II, ruled in favor of the WEA and reversed the Thurston County Superior Court. The penalty was removed and the case was remanded back to Superior Court. The Attorney General appealed the ruling to State Supreme Court. The appeal is pending.
- **Robert Edelman v. State of Washington ex rel. Public Disclosure Commission, Court of Appeals Div. II No. 28563-1-II** (*Pending*). This is a challenge filed in May 2001 to a PDC rule at WAC 390-16-311 concerning entity affiliation and a "staying out" provision, under the Administrative Procedure Act. The challenge seeks repeal of the rule following Commission denial of a similar request from the Petitioner. The rule was adopted in 1994, and implements RCW 42.17.660, a statute that was part of Initiative 134 and which addresses the affect of contribution limits on entities and labor organizations. The PDC prevailed in the Thurston County Superior Court in February 2002; the Petitioner filed an appeal with the Court of Appeals. The Court

of Appeals reversed the Thurston County Superior Court ruling. The PDC filed a petition for review with the State Supreme Court. The appeal is pending.

Superior Courts

- **State ex rel. Public Disclosure Commission v. Permanent Offense, Tim Eyman, Suzanne Karr**, Snohomish County Superior Court No. 02-2-08212-1 (*Pending*). The PDC filed a complaint against Permanent Offense et al. in April 2002 following a referral to the Attorney General's Office regarding alleged violations of chapter 42.17 RCW. Permanent Offense et al. allegedly failed to maintain campaign records to document reimbursements for personal expenditures, failed to report in-kind contributions, among other claims. A judgment on behalf of the state was entered as to Tim Eyman and the political committee in August 2002; the remaining case against Ms. Karr is still pending.
- **Washington Education Association Political Action Committee v. Public Disclosure Commission**, King County Superior Court No. 01-2-29388-5KNT. This is a challenge filed in October 2001 by WEA-PAC to the PDC's enforcement of RCW 42.17.680 as it requires disclosure of public employee names for employees who use the payroll deduction method for political contributions. A Preliminary Injunction was entered in 2001 enjoining the PDC from requiring disclosure of certain contributor names. On February 6, 2003 the parties stipulated to a permanent injunction, and the case was closed.
- **Protect Our Pets v. Public Disclosure Commission**, Thurston County Superior Court No. 03-2-00425-9 (*Pending*). Petition for Judicial Review was filed following an enforcement case. Protect Our Pets, a political committee supporting Initiative 713, was found in violation of RCW 42.17.080 and 42.17.090 by failing to timely report obligations and the details of payments during its 2000 campaign in support of the Initiative. The political committee was assessed a civil penalty of \$2,500. Petition for Judicial Review was filed on March 7, 2003. A status conference was originally set for June 6, 2003 and continued at the request of Petitioner's counsel based on scheduling conflict.
- **State ex rel. Public Disclosure Commission v. National Education Association**, Thurston County Superior Court No. 02-2-01709-3 (*Complaint has been filed, stay order entered; case pending*). Complaint against National Education Association following referral to Attorney General's Office regarding alleged violations of RCW 42.17.760 by NEA's alleged failures to comply with a statute prohibiting unauthorized use of agency fees. Order for Stay of Proceedings entered on February 6, 2003, during pendency of WEA fee payer appeal case before the State Supreme Court (State ex rel. PDC v. WEA, Division II Court of Appeals No. 28264-0-II).

Other Litigation - Amicus

State Courts

- **State ex rel. Public Disclosure Commission v. Washington Education Association** Supreme Court No. 72892-5; Court of Appeals Division II No.25272-4-II (*Pending; The PDC is not a party to the appeal but had intervened in one issue in the trial court, and was granted amicus status in the Court of Appeals*). Among other claims, this case involves the issue of whether the Washington Education Association is a "political committee" under chapter 42.17 RCW and whether the definition is constitutional. The state did not proceed with filing charges on this issue, so the citizen's action, through the Evergreen Freedom Foundation, proceeded with this and other claims. The WEA argued it was not a political committee. The WEA prevailed in the trial court and in the Court of Appeals in April 2002. A Petition for Review was denied by the State Supreme Court.

Federal Courts

- **American Civil Liberties Union and Gary Peck v. Dean Heller and Frankie Sue Del Papa**. 9th Circuit Court of Appeals No. 01-15462 (*Pending; The PDC is not a party but was granted amicus status in the Ninth Circuit Court of Appeals*). This is a federal court appeal concerning Nevada's prohibition on anonymous political advertising. The PDC filed an amicus brief in August 2001 in support of Nevada. The case is pending.
- **California Pro-Life Council v. Getman et al.** 9th Circuit Court of Appeals No. 01-15462 (*Decision issued*). The PDC is not a party to the appeal but had intervened and filed amicus brief, along with Nevada and Oregon, in support of California. The case involved California campaign disclosure statutes for ballot measure campaigns. Decision issued on May 8, 2003 affirming district court in part, reversing it in part, and remanding for further proceedings.

AGENCY GOALS AND OBJECTIVES

1. Identify and implement strategies to make enforcement efforts more effective; evaluate results.

Objective: Secure passage of legislation that increases the PDC's penalty authority and modifies the 45-day letter period to 60 business days.

- 1-1 Arrange introduction of agency request legislation with bi-partisan support of legislative policy committee members. Work with prime sponsors and policy committee chair and staff to ensure committee hearing and favorable executive action. Educate Rules Committee members about legislation; secure passage from Rules Committee. Work with leadership and staff to schedule floor action and secure passage (without adverse amendments).

Objective: Prioritize enforcement functions and continue to modify processes to speed resolution of complaints.

- 1-2 Perform a sufficient number of audits to provide a statistically valid finding regarding the degree of compliance with filing deadlines.
- 1-3 Complete routine, non-complex investigations within 90 days of receiving complaint.
- 1-4 Create and implement standardized penalty mechanism (e.g., grid) for late filers and other brief enforcement hearing cases.
- 1-5 Review, identify and adopt necessary amendments to enforcement process rules (WAC 390-37).
- 1-6 Conduct random desk and field audits of campaigns and lobbyists/ lobbyist employers.

2. Enhance public access and awareness of PDC reports and data through evolving technology.

Objective: Continue to develop and revise user-friendly, platform independent, Internet-based electronic filing programs for persons reporting under chapter 42.17 RCW.

- 2-1 Seek additional funding for maintenance of software programs and updating Information Technology infrastructure to ensure security and reliability of service.
- 2-2 Recruit and consult with filer focus groups during the development or revision of the various filer reporting programs in order to address the specific needs of users.
- 2-3 Conduct electronic filing training sessions upon request and according to a schedule that corresponds with:
 - the start of legislative session (lobbyists),
 - the February deadline for lobbyist employer reports,
 - the time frame for filing declarations of candidacy,
 - the April 15 due date for the annual financial affairs statement, and other times that meet filer needs.
- 2-4 Generate dynamic reports regarding lobbying and campaign activity that answer frequently asked media and citizen questions.
- 2-5 Offer media briefings to highlight Web site information.

3. Implement Standardized Communication Practices.

Objective: Complete communication planning process.

- 3-1 Develop and implement communication protocols for a) routine activities, including brief enforcement hearings, PDC News, COGEL articles and training schedules, and b) emerging issues and events, including conclusion of major investigations, new electronic filing software, court decisions, and results of national assessments of disclosure agencies.
- 3-2 Distribute media notices regarding upcoming filing dates.
- 3-3 Maintain agency-wide workload calendar to assure timely task completion.
- 3-4 Recruit representatives from League of Women Voters, Common Cause, Allied Daily Newspapers and other public interest groups to become involved in PDC-related issues.
- 3-5 Schedule and conduct as many presentations as possible given available resources.

4. Increase Commission and staff capacity to meet future challenges.

Objective: Maximize staff training opportunities.

- 4-1 Review Department of Personnel training opportunities to improve the skill level of all staff.

Objective: Develop succession plan.

- 4-2 Identify staff retirement vacancies that may occur during the next three to five years, evaluate existing skills and abilities of potential internal applicants, provide training opportunities to augment existing capabilities.
- 4-3 Promote rotation of commission leadership roles through exposure to increased responsibilities; e.g. vice chair or other commission member will conduct or observe brief enforcement hearings on occasion in preparation for assuming position of chair.

Objective: Support diversity on Commission and within agency.

- 4-4 When staff vacancies occur, notify Human Rights Commission, Commission on Asian Pacific American Affairs, Commission on African-American Affairs and Commission on Hispanic Affairs to seek their assistance in informing diverse audiences of available positions.
- 4-5 Annually notify legislative leaders and stakeholder groups of upcoming Commission vacancy, inviting them to submit recommendations to the Governor's Office.

Objective: Explore and establish partnerships within government to better leverage and exchange knowledge and resources.

- 4-6 Improve collection procedures by: a) working with Department of General Administration, Office of Financial Management and/or Department of Revenue on collection efforts; and b) joining multi-agency effort to change law regarding collection of agency final orders to streamline the collection process and reduce state expenditures.
- 4-7 Build communication and collaboration between PDC political finance specialists and AGO paralegals in order to increase efficiency and avoid duplication of effort.
- 4-8 Continue to build constructive relationships with the Governor's Office, Legislators and legislative staff.